

STATE BOARD OF LAND COMMISSIONERS

Philip E. Batt, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Anne C. Fox, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

MINUTES REGULAR LAND BOARD MEETING August 11, 1998 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on August 11, 1998, in Boise, Idaho. The Honorable Philip E. Batt presided. The following members were present.

Honorable Secretary of State Pete T. Cenarrusa
Honorable Attorney General Alan G. Lance
Honorable State Controller J.D. Williams
Honorable Superintendent of Public Instruction Anne C. Fox

Secretary to the Board Stanley F. Hamilton

CONSENT AGENDA

The following consent agenda was approved in its entirety upon a motion by State Controller Williams and seconded by Secretary of State Pete Cenarrusa. The motion carried on a vote of 5-0

1. The following official transactions were approved:

Bureau of Minerals Official Transactions for June 1998
Bureau of Real Estate, Land Sale Section for June, 1998
Bureau of Real Estate, Easement Section for June, 1998
Timber Sale Official Transactions for June 19, 1998 through July 24, 1998

2. The following application for addition to the qualified bidders list for timber sales was approved:

John L. Holdeman
HCR 61, Box 228BA
Bonners Ferry, ID 83805

This item was staffed by Ron Litz, Chief, Bureau of Forest Management

3. The request for a Supplemental Agreement for 1998 installments on State of Idaho, Land Sale Certificate No's. 25521 and 25522, Public School, Norman and Robin Riley was approved.

Staffed by Perry Whittaker, Bureau Chief of Real Estate

4. The request for rescindment and vacation of Environmental Audit Protection Rules, IDAPA 20.01.02 was approved.

Staffed by Stephanie Balzarini, Deputy Attorney General

5. The following Land Board minutes were approved:
Regular Land Board Meeting – May 12, 1998
Special Land Board Meeting - U.S.Bank, Pigeon, Alford Exchange - June 1, 1998
6. Association certification was approved for the following:
Southern Idaho Timber Protective Association
Clearwater-Potlatch Timber Protective Association

REGULAR AGENDA

7. Director's report (Includes quarterly Endowment Fund Report information)

Director Hamilton presented the monthly Director's report. The report provided a summary of the fiscal 1998 Principal Fund Balances and Revenue Composition and the Idaho Department of Lands contribution impact to the permanent endowment.

The report also provided a summary of a three-year trend in Income Fund Contributions of all funds and the Fiscal 1998 endowment program performance ratios by asset classifications.

The Quarterly Endowment Fund report was moved from the Information agenda and incorporated in the Director's report.

Superintendent Fox complimented the department on the preparation of this report. She asked Director Hamilton about the loss of the mill at Horseshoe Bend and the fire at the Rayonier Mill and what impact that would have.

Director Hamilton stated that the department was sorry about the closure of the mill at Horseshoe Bend and felt that the sales that we have in the Payette and Boise area will probably go to other mills. He said the reason given for the closure of the mill at Horseshoe Bend was the shortage of federal timber supply.

He said the loss of the Rayonier Mill would have quite an impact on the local area. He said he hoped that mill will be rebuilt. Governor Batt stated that he has encouraged the mill to rebuild. Director Hamilton said in that area there is good competition for timber.

8. Audience with the Board – Charles Meissner, Jr. - Staffed by Tracy Behrens, Range Management Specialist and Nick Krema, Deputy Attorney General, Natural Resources Division

Director Hamilton provided the background information on this item. It has been before the Board previously. It involves two 40-acre parcels of land that are located west of Boise. These parcels were part of land sale certificates that were sold back in the '70's. Mr. Meissner paid on those certificates for a few years and then failed to continue his payments.

The department has cancelled those certificates. They have been idle for many years, however, Mr. Meissner has continued to operate on the parcels and use them as if he owned them. The department has not tried to lease them to anyone else.

Mr. Charles Meissner, Jr was present with his legal counsel, Charles Honsinger who spoke on his behalf. Mr. Honsinger said the facts as stated are correct in that the land sale certificates were cancelled. Mr. Meissner did not make payments after 1984. Mr. Honsinger explained Mr. Meissner's basis for not paying on the contracts.

Mr. Honsinger stated that Mr. Meissner is not asking to be simply granted title to the lands, he recognizes he has some obligations left on those land sale certificates should the Land Board agree with his position. He stated the Land Board does have the ability pursuant to Idaho Code § 58-316 either to reinstate the contracts or to enter into a supplemental agreement with Mr. Meissner.

Attorney General Lance stated that there has been a trespass for the past 14 years without any payment of rent. He said it was his understanding that Mr. Meissner has bladed in a right-of-way to the land lock parcels over state land. Mr. Meissner does not seem to understand that the state owns the land and there are processes that need to be gone through in order to give rights-of-way and easement. Mr. Honsinger said that Mr. Meissner has been occupying those lands under a claim of right, feeble though the connection is, it is a defense of trespass. Mr. Meissner has assumed that he owned the lands.

State Controller asked what the offer was at this time. Is it an offer to pay the full contract balance by the end of the contract, but make a payment within the next week or so of \$5,000? Mr. Honsinger stated yes, to show a good faith intent and pay the full amount due under the contract by the end of the contract period. Mr. Honsinger said the final payment on the contract is due the first of January 2001. The total contract prices were \$7,600 on one parcel and \$5,000 on the other parcel. State Controller Williams asked if he intended to pay the back interest and then complete the contract by 2001. Mr. Honsinger stated that Mr. Meissner would like to know the interest rate to be charged, but is willing to pay all interest that may be assessed for those 14 years of non-payment.

After considerable discussion, a motion was made by Superintendent Fox and seconded by State Controller Williams to resolve into Executive Session to discuss any potential legal problems arising from this issue. The motion carried on a vote of 5-0

After returning to regular session Secretary of State Cenarrusa asked for unanimous consent to defer this agenda item until the October 13, 1998 regular Land Board meeting. There were no objections.

9. Request for final approval to complete the State of Idaho/Payette National Forest No. 5 land exchange - Presented by Perry Whittaker, Bureau Chief of Real Estate

Perry Whittaker provided the background information. This is the fifth in a series of exchanges between the Payette National Forest and the State of Idaho to consolidate ownership resulting in more efficient land management and improved revenue to the endowment beneficiaries.

The federal property consists of 5,471.46 acres in eight (8) non-contiguous tracts lying west of McCall. The present use of the property is for timber production purposes, which is the highest and best use. The State land consists of 8,160 acres in 13 non-contiguous tracts. These tracts lie in northern Valley County and southern Idaho County, primarily east of McCall.

The timber was cruised and check cruised. Joint appraisals were conducted and approved. There were no significant comments in opposition to the land exchange.

Department staff recommended final Land Board approval to complete this exchange. Motion was made by State Controller Williams and seconded by Superintendent Fox to accept the recommendation of the department. The motion carried on a vote of 5-0.

10. Consideration of placement of Little Payette Lake state lot leased by Stephen O. Coughlin on the Payette Lake – Lakefront Cottage Site Exchange List - Presented by Perry Whittaker, Bureau Chief of Real Estate

Mr. Perry Whittaker provided the background information on this issue. He stated that Mr. Coughlin would like to have his lease lot R-5079 at Little Payette Lake considered for disposal through land exchange. Mr. Coughlin's state lease is the only cottage site lease on Little Payette Lake and is not in a platted subdivision.

Director Hamilton stated that the issue is whether or not the Board wishes to place this land on the land exchange list. There is a subsequent question as to the value of the property that is under consideration at this point and was going to be handled at the same time as the other appeals of valuation to be considered by this Board at a later date.

Mr. Coughlin stated that he would like to be placed on the land exchange list. He also stated that he would like to have his property appraised to establish a market value. He feels the appraisal is necessary for land exchange purposes or to establish a rental rate.

Department staff previously identified the land adjacent to Little Payette Lake for retention as part of its land use planning efforts. At this time, department staff recommends against disposal of the cottage site since it would create a private inholding, which could create additional management concerns. If the Board disposes of the Coughlin lease site, it would seem preferable to dispose of the total parcel rather than leave a private inholding.

State Controller Williams said he had looked at the property and by his visual observations, he would have no problem with putting this land on the land exchange list. He said the boat ramp

to the south ought to be developed and if Mr. Coughlin's lot is put on the exchange, the boundaries need to be established so that there is access to that area.

Attorney General Lance stated that the Land Board has the right to adjust Mr. Coughlin's property line any way they choose, if it is necessary, to increase the width of the road access. With that qualification, he made the motion to allow Mr. Coughlin's leased property to be added to the exchange list. Superintendent Fox seconded the motion. The motion carried on a vote of 5-0.

11. Request for approval to conceptually proceed with an exchange between the State of Idaho and Clearwater National Forest - Presented by Perry Whittaker, Bureau Chief of Real Estate

Perry Whittaker presented the background information for this item. The Clearwater Area of the Idaho Department of Lands and the Clearwater National Forest are proposing an exchange of state and federal lands to be called "The Pits" land exchange.

The primary purpose of the exchange is to consolidate the ownership of both parties, to improve the overall land management efficiency, and decrease administrative costs. All lands in the exchange are commercial timberland with a fairly equitable balance in site potential on both state and federal land.

Department staff recommended conceptual approval from the Land Board to initiate this exchange proposal with the Clearwater National Forest. The motion was made by Attorney General Lance and seconded by State Controller Williams to accept the recommendation of the department. The motion carried on a vote of 5-0.

12. Request for approval to conceptually proceed with an exchange between the State of Idaho and Boise Cascade Corporation
Presented by Perry Whittaker, Bureau Chief of Real Estate

Perry Whittaker presented the background information regarding this item. The department has received a request from the Payee Lakes Supervisory area office to initiate a land exchange with Boise Cascade Corporation.

The exchange is a multi-parcel forest land exchange. The parcels are scattered over a large area extending from Smiths Ferry on the south to as far north as McCall and west to the Price Valley area lying west of New Meadows and west of Council in the Hornet Creek area.

This exchange is excellent from a consolidation standpoint. The state will dispose of approximately 36 separate parcels while acquiring land that ties in well with existing state ownership. Administrative costs and concerns will be reduced which will result in increased revenue to the beneficiaries.

Department staff recommended conceptual approval from the Land Board to initiate this exchange proposal with Boise Cascade Corporation. The motion was made by Secretary of State Cenarrusa and seconded by Attorney General Lance to accept the recommendation of the department. The motion carried on a vote of 5-0.

13. Request for approval to enter into a Memorandum of Agreement between the State of Idaho and the Idaho Panhandle National Forest regarding a sensitive plant species
Presented by Perry Whittaker, Bureau Chief of Real Estate

Director Hamilton stated that this item is a request for approval of the concept of acquiring federal land withing the Grouse Creek/Mary Mix land exchange subject to a sensitive plant species Memorandum of Agreement (MOA). Perry Whittaker provided the background information.

Department Staff are working with the Idaho Panhandle National Forest to complete a desired land exchange involving acquisition of 2,270 acres of federal land for 1,880 acres of State land. The federal government is required, as part of the exchange process, to complete a biological evaluation for Threatened, Endangered and Sensitive plants and animals on lands within an exchange.

A small population of 24-clustered lady's slipper plants was found on a small area within one parcel of federal land identified for acquisition by the State. The clustered lady's slipper is an orchid species that is considered rare throughout its range. It is listed as sensitive by the United States Forest Services in Regions 1,2,4 and 6 and is listed as a species of concern by the United State Fish and Wildlife Service.

Mr. Jim Dvorcek, was present from the Forest Service to answer any questions and Mr. Monte White, appraiser from Coeur d'Alene Area Office was also present. Attorney General Lance said this was a proposed exchange that the State would take title to the land but the federal government would tell the State what to do or not to do with it in the future. Director Hamilton said as far as the clustered lady's slipper is concerned – yes.

Director Hamilton asked Mr. Dvorcek how the Forest Service would feel about the possibility of an exchange that would exclude the parcel containing the clustered lady's slipper. Mr. Dvorcek said the Forest Service would prefer not to take this 40-acre parcel out of the exchange. He stated that the State is basically not paying anything for this acreage.

He stated the Forest Service is asking for cooperation in managing this species and that is the reason for the Memorandum of Agreement (MOA) which limits the State from harvesting while the clustered lady's slipper is present. The MOA can be terminated if there is a natural disaster that destroys the clustered lady's slipper or if the species becomes no longer a sensitive species.

State Controller Williams asked if the clustered lady's slipper would be of concern to the State. Director Hamilton stated that it probably would, because the State does take sensitive species into account.

After considerable discussion on this agenda item, the Governor requested a delay for an indefinite period. There were no objections.

14. Request for final approval to sell Indian Valley landfill site
Presented by Dan Spanfelner, Real Estate Specialist

Director Hamilton stated that this was a request for final land board approval to sell state endowment land encompassing the Adams County landfill. Dan Spanfelner provided the background information.

Mr. Spanfelner stated that this was final approval to sell ten (10) acres to Adams that formerly held their landfill. An appraisal was done at the request of Adams County. The department requests approval to sell this parcel at public auction.

Motion was made by State Controller Williams and seconded by Attorney General Al Lance to give final approval with the inclusion of a hold harmless disclaimer. Motion carried on a vote of 5-0.

INFORMATION AGENDA

Director Hamilton briefly covered the information agenda items.

15. Timber sale activity report
16. Interest rate update
17. Triumph Mine update
18. Fire Season update

Motion was made by Attorney General Al Lance and seconded by State Controller Williams to resolve into executive session at 11:35 a.m. The motion carried on a vote of 5-0.

EXECUTIVE SESSION

19. Discussion of the decision and its impacts in the Coeur d'Alene Lake case; United States and the Coeur d'Alene Tribe v. State of Idaho - Presented by Clive J. Strong, Chief, Natural Resources Division, Deputy Attorney General & Steven W. Strack, Deputy Attorney General

The Land Board returned to regular session at 12:10 p.m.

RETURN TO REGULAR AGENDA

Agenda Item 19: After returning to regular session, the motion was made by State Controller Williams for the State of Idaho of Idaho to appeal the decision of Judge Lodge to the 9th Circuit Court. Secretary of State Pete Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

The meeting was adjourned at 12:20 p.m. for lunch and reconvened at 1:45 p.m.

Governor Batt and Superintendent of Public Instruction Anne Fox were absent from the afternoon portion of the meeting.

20. Budget Presentation

Presented by Stan Hamilton, Director and
Kathy Opp, Fiscal Officer

Attorney General Lance stated that he had a 2:30 p.m. commitment, which would leave the Land Board without a quorum.

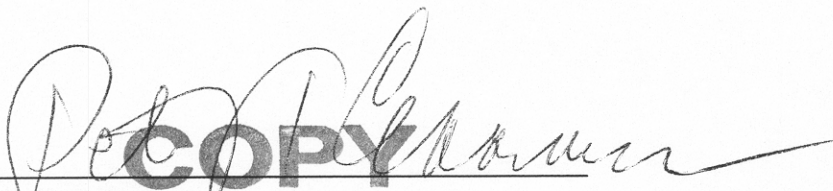
The department stated that they needed a decision on the budget in order to meet the September 1, 1998 deadline for submission. Mr. Larry Schlicht, Division of Financial Management, stated that an extension would be granted in order for the presentation to be made in greater detail at the September 8, 1998 regular Land Board meeting.

The meeting adjourned at 2:40 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

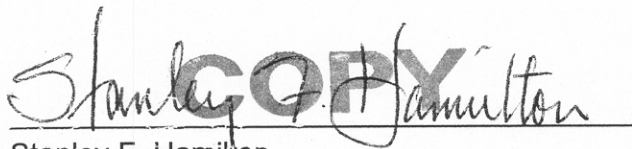
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President, State Board of Land Commissioners and
Governor of the State of Idaho

A handwritten signature in dark ink, appearing to read "Pete T. Cenarrusa".

Pete T. Cenarrusa
Secretary of State



A handwritten signature in dark ink, appearing to read "Stanley F. Hamilton".

Stanley F. Hamilton
Director